

TOWN COUNCIL MINUTES

August 16, 2010

The regularly scheduled meeting of the Hampden Town Council was held on Monday, August 16, 2010. The meeting was held at the municipal building council chambers and was called to order by Mayor Arnett at 7:00 p.m.

Attendance: Councilors: Mayor Matt Arnett, Andre Cushing, Thomas Brann, William Shakespeare, Jean Lawlis and Janet Hughes

Town Manager: Susan Lessard

Town Counsel: Thomas Russell

Department Heads/Staff: Planner Robert Osborne

A. CONSENT AGENDA

Motion by Councilor Cushing, seconded by Councilor Hughes to accept the Consent Agenda – unanimous vote in favor.

B. PUBLIC COMMENTS

None

C. POLICY AGENDA

1. PUBLIC HEARINGS

a. ADOPTION OF PROPOSED PROPERTY ASSESSED CLEAN ENERGY (PACE) ORDINANCE

Planner Robert Osborne explained the program and stated that Town Attorney Russell had reviewed the proposed contract and would like to see some minor changes/clarifications but that these would not impact the adoption of the ordinance. The Public Hearing was opened by Mayor Arnett. No one spoke in favor, opposition, or neither-for-nor-against.

Motion by Councilor Cushing, seconded by Councilor Lawlis to add the normal ordinance preamble required by the Town Charter to the PACE Ordinance. Unanimous Vote

Motion by Councilor Hughes, seconded by Councilor Brann to adopt the PACE Ordinance as amended. Unanimous vote.

**DRAFT
TOWN OF HAMPDEN, MAINE
PROPERTY ASSESSED CLEAN ENERGY (PACE) ORDINANCE**

C-1-a

Adopted: Hampden Town Council, Date
Effective: Date

CERTIFIED BY:

Denise Hodsdon, Town Clerk

Town Clerk
Affix Seal

Adopted by Town Council: 8/16/2010¹

DRAFT
TOWN OF HAMPDEN, MAINE
PROPERTY ASSESSED CLEAN ENERGY (PACE) ORDINANCE
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**TOWN OF HAMPDEN
PROPERTY ASSESSED CLEAN ENERGY (PACE) ORDINANCE**

**ARTICLE I
GENERAL**

1.1 Title - This Chapter shall be known and may be cited as "Town of Hampden Property Assessed Clean Energy (PACE) Ordinance."

1.2 Purpose - By and through this Ordinance, the Town of Hampden ("Town" or "Hampden") declares as its public purpose the establishment of a municipal program to enable its citizens to participate in a Property Assessed Clean Energy ("PACE") program so that property owners can access financing for energy saving improvements to their properties located in the Town. The Town declares its purpose and the provisions of this Ordinance to be in conformity with federal and state laws.

1.3 Enabling Legislation - The Town enacts this Ordinance pursuant to State law. Specific enabling legislation is found in Public Law 2009, Chapter 591, 124th Maine State Legislature—"An Act To Increase the Affordability of Clean Energy for Homeowners and Businesses."

1.4 Reserved

**ARTICLE II
DEFINITIONS**

2.1 Definitions - Except as specifically defined below, words and phrases used in this Ordinance shall have their customary meanings; as used in this Ordinance, the following words and phrases shall have meanings indicated.

2.1.1. *Energy saving improvement* - "Energy saving improvement" means an improvement to qualifying property that is new and permanently affixed to qualifying property and that:

1. Will result in increased energy efficiency and substantially reduced energy use and:
 - a. Meets or exceeds applicable United States Environmental Protection Agency and United States Department of Energy Energy Star program or similar energy efficiency standards established or approved by the Trust;
or
 - b. Involves air sealing, insulating, and other energy efficiency improvements of residential, commercial or industrial property in a manner approved by the Trust; or
2. Involves a renewable energy installation or an electric thermal storage system that meets or exceeds standards established or approved by the Trust.

2.1.2. *Municipality* - "Municipality" shall mean the Town of Hampden.

2.1.3. *PACE agreement* - "Pace agreement" means an agreement entered into by an owner or owners of a qualifying property and the Trust, or an agent authorized by the Trust, that authorizes a PACE loan and the creation of a PACE mortgage on qualifying property and that is approved in writing by all owners of the qualifying property at the time of the agreement, other than mortgage holders.

2.1.4. *PACE assessment*. "PACE assessment" means an assessment made against qualifying property to repay a PACE loan.

2.1.5. *PACE district*. "PACE district" means the district in which the PACE program may operate and which is defined geographically to include the entire municipality as determined by municipal boundary lines.

2.1.6. *PACE loan*. "PACE loan" means a loan made to the owner(s) of a qualified property for an energy saving improvement.

2.1.7. *PACE mortgage*. "PACE mortgage" means a mortgage securing a loan made pursuant to a PACE program to fund energy saving improvements on qualifying property.

2.1.8. *PACE program*. "PACE program" means a program established under State statute by the Trust and a municipality under which property owners can finance energy savings improvements on qualifying property.

2.1.9. *Qualifying property*. "Qualifying property" means real property located in the Town of Hampden.

2.1.10. *Renewable energy installation*. "Renewable energy installation" means a fixture, product, system, device or interacting group of devices installed behind the meter at a qualifying property, or on contiguous property under common ownership, that produces energy or heat from renewable sources, including, but not limited to, photovoltaic systems, solar thermal systems, biomass systems, landfill gas to energy systems, geothermal systems, wind systems, wood pellet systems and any other systems eligible for funding under federal Qualified Energy Conservation Bonds or federal Clean Renewable Energy Bonds.

2.1.11. *Trust*. "Trust" means the Efficiency Maine Trust established in 35-A M.R.S.A. § 10103.

ARTICLE III PACE PROGRAM

3.1 Establishment; funding - The Town of Hampden hereby establishes a PACE program allowing property owners in the Town of Hampden who so choose to access financing for energy saving improvements to their property through PACE loans administered by the Trust, or its agent. The PACE loan funds are available from the Trust through grant money awarded to the State of Maine under the federal Energy Efficiency and Conservation Block Grant Program. These loan funds are available to citizens who reside in municipalities that 1) adopt a PACE Ordinance, 2) adopt and implement a local public outreach and education plan, and 3) require that participants in the program conform to the requirements of the Home Energy Savings Program administered by the Efficiency Trust or any successor or corollary program adopted by the Trust for the purpose of administration of PACE loan funds. The Town may, from time to time, use

any other funding sources made available to it, or appropriated by it, for the express purpose of its PACE program. The Town shall be entitled to, and shall avail itself of, recoupment of administrative or other costs incurred by the Town in conjunction with its PACE program to the fullest extent permissible by the Trust or governing law.

3.2 PACE District - The Town hereby establishes a PACE district in which the PACE program may operate and which is defined geographically as being the entire municipality as determined by municipal boundary lines.

3.3 Reserved -

ARTICLE IV CONFORMITY WITH THE REQUIREMENTS OF THE TRUST

4.1. Property Owners; Home Energy Savings Program - In order to access PACE loans for home energy savings improvements, participating property owners must conform to the requirements of the Home Energy Savings Program administered by the Trust or any successor or corollary program adopted by the Trust for the purpose of administration of PACE loan funds.

4.2. Standards adopted; Rules promulgated; model documents - If the Trust adopts standards, promulgates rules, or establishes model documents subsequent to Town's adoption of this Property Assessed Clean Energy ("PACE") Ordinance and those standards, rules or model documents substantially conflict with Town's PACE Ordinance, the Town, should it desire to remain eligible to participate with the Trust in this program, will be required to take necessary steps to conform this PACE Ordinance and its PACE program to those standards, rules, or model documents.

4.3. Rights to carbon emissions reductions - PACE agreements entered into pursuant to this PACE Ordinance shall specify that all rights of participating property owners related to carbon emissions reductions from energy saving improvements are deemed to be assigned by the property owner(s) to the Trust and are held by the Trust for the purpose of quantifying, monetizing and/or marketing aggregated carbon emission reductions in the State of Maine.

4.4. Reserved -

ARTICLE V PROGRAM ADMINISTRATION; MUNICIPAL LIABILITY

5.1. Program Administration

5.1.1. Pursuant to §10154(2)(A)(2) and (B) of the State enabling legislation, the Town will enter into a contract with the Trust to administer the functions of the PACE program for the municipality. The contract with the Trust will establish the administration of the PACE program including, without limitation, that:

1. the Trust, or its agent, will be the entity to enter into PACE agreements with property owners;
2. the Trust, or its agent, will create and record a Notice of the PACE agreement in the Penobscot County Registry of Deeds;

3. the Trust, or its agent, will disburse the PACE loan to the property owner;
4. the Trust, or its agent, will send assessment statements with payment deadlines to the property owner;
5. the Trust, or its agent, will be responsible for collection of the PACE assessments;
6. the Trust, or its agent, will record any lien, if needed, due to nonpayment of the assessment; and
7. the Trust, or its agent, will ensure the collection of data required to quantify carbon savings and to facilitate access to and eligibility for voluntary carbon markets, for federal grants for energy efficiency and for other incentive programs that support energy savings improvements; and

5.2. *Adoption of Education and Outreach Program* - In conjunction with adopting this PACE Ordinance, the Town shall adopt and implement an education and outreach program so that citizens of the Town are made aware of home energy saving opportunities, including the opportunity to finance energy saving improvements with a PACE loan.

5.3. *PACE Assessments* - PACE assessments do not constitute a municipal tax but may be assessed and collected by the Trust in any manner determined by the Trust and consistent with applicable law.

5.4. *Liability of Municipal Officials; Liability of Municipality*

5.4.1. Notwithstanding any other provision of law to the contrary, municipal officers and municipal officials, including, without limitation, tax assessors and tax collectors, are not personally liable to the Trust or to any other person for claims, of whatever kind or nature, under or related to a PACE program, including, without limitation, claims for or related to uncollected PACE assessments.

5.4.2. Other than the fulfillment of its obligations specified in a contract with the Trust entered into under Article VI, §1(A) above, a municipality has no liability to a property owner for or related to energy savings improvements financed under a PACE program.

2. NOMINATIONS-APPOINTMENTS-ELECTIONS

a. NOMINATION PETITIONS AVAILABLE - DUE DATE SEPTEMBER 2, 2010

Town Clerk Denise Hodsdon reminded the Council of the following vacancies for local offices and that nomination papers were available for all:

Council Seat – 1 seat for one unexpired term
School Board – 2 seats for 3 year terms and 2 seats for two unexpired terms
Water District – 1 seat for a 5 year term

3. UNFINISHED BUSINESS

a. TREE BOARD VISION FOR DOROTHEA DIX PARK

Councilor Lawlis reported that both the Tree Board and Friends of Dorothea Dix Park members were comfortable with the vision presented.

Motion by Councilor Lawlis, seconded by Councilor Hughes to support the vision statement coming from the Tree Board. Motion withdrawn.

Councilor Brann proposed a friendly amendment to adopt the Tree Board Vision. Motion by Councilor Lawlis, seconded by Councilor Hughes that the Town Council adopt the Tree Board Vision Statement for Dorothea Dix Park.

Discussion: Councilor Cushing expressed the concern that the term "maintain high quality areas of the park" may obligate the Town in some fiscal way in the future.

Councilor Brann likes the first paragraph of the vision statement but not the second and third paragraphs.

The Town Manager stated that the Council needed to provide additional direction if this was returned to the Committee because they had been assigned this task once and had returned the language presented.

Vote on the motion:

Councilor Hughes, Councilor Lawlis, Councilor Cushing, Mayor Arnett – yes

Councilor Brann – No

~~Tree Board~~ Vision for Dorothea Dix Park

Dorothea Dix Park will be developed as a safe, inviting, passive recreation town park with a natural character. The area will be maintained following healthy ~~forest~~ vegetation management practices as recommended by the Hampden Tree Board. ~~Forest~~ Vegetation management recommendations will promote forest ~~development~~ health, maintain and enhance wildlife habitats, and control invasive species. The development of the park will provide increased educational opportunities surrounding the natural ecosystems and the historic value of the park.

The front ~~half~~ part of the park and more open areas of the park will be available and maintained for light recreation such as picnicking and playground areas, but not for formal organized recreation or motorized recreation. The rest of the park will be maintained as a safe and healthy forest which will foster various soft nature recreational experiences such as hiking, trail running, bird watching, and nature study. ~~The development of the park will provide increased educational opportunities surrounding the natural ecosystems and the historic value of the park.~~

In honor of Dorothea Dix's mission in life, some high quality areas of the park will be developed in such a way as to be accessible to individuals with physical and/or mental challenges.

Adopted by Town Council: 8/16/2010

Councilor Shakespeare – Abstained

Motion carried.

Motion by Councilor Hughes, seconded by Councilor Lawlis to change the name of the statement from the Tree Board Vision for Dorothea Dix Park to the Vision for Dorothea Dix Park. Unanimous vote.

4. NEW BUSINESS

a. APPLICATIONS FOR RENEWAL OF OUTDOOR WOOD-BURNING FURANCE LICENSES

1. Richard Golding
2. Rodney Stanhope
3. Scott Stanhope
4. Gary Thibodeau

Motion by Councilor Brann, seconded by Councilor Hughes to act on all four applications as a whole. Unanimous vote.

Motion by Councilor Brann, seconded by Councilor Shakespeare to approve all four renewals. Unanimous vote.

b. SET MIL RATE – 2010/2011 TAX YEAR

The Town Manager reported that the proposed mil rate was the same as for the prior year at \$15.90 per thousand. However, despite holding the mil rate stable, people with Homestead Exemptions would see a \$47.70 increase due to the reduction by the State in the value of the Homestead Exemption for the 2010/2011 year.

Motion by Councilor Cushing, seconded by Councilor Hughes to set the mil rate at \$15.90 per thousand for the 2010/2011 year. Unanimous vote.

c. COMMUNICATIONS COMMITTEE RECOMMENDATION – PURCHASE OF DIGITAL EQUIPMENT FOR CABLE TV (AGENDA ITEM ADDED)

Motion by Councilor Brann seconded by Councilor Cushing to set aside the rules for the purpose of adding an item to the agenda. Unanimous vote.

Motion by Councilor Cushing, seconded by Councilor Hughes to add an item to the agenda (C-4-c – Communications Committee Recommendation for the purchase of Digital Cable Television Equipment). Unanimous vote.

Councilor Cushing reported that the Communications Committee recommends that the Council approve Option 2 of the two options submitted by Access AV for purchase of digital equipment for the cable TV operation in the amount of \$12,164. This will give access to the Town's television programming to people who do not have Cable TV, will reduce the time it takes to produce shows, and will improve viewing quality. The Committee recommends waiving bid procedure and awarding this to Access AV since they are the vendor that is recommended by the New England School of Communication and the vendor that the Town has worked with successfully in the past. Councilor Cushing stated that funding for the purchase would come from Cable TV reserve and from the Penobscot Cable Consortium fund for equipment for individual communities.

Motion by Councilor Cushing, seconded by Councilor Brann to accept the report of the Communications Committee. Unanimous vote.

Motion by Councilor Cushing to waive bid procedure and award the bid for digital equipment to Access AV in the amount of \$12,164. Unanimous vote.

Motion by Councilor Cushing, seconded by Councilor Brann to expend funds not to exceed \$12,164 for the purpose of purchasing, installing, and receiving training on digital broadcasting equipment with funding to come from Cable TV reserve and the Penobscot Cable Consortium Equipment Fund. Unanimous vote.

D. COMMITTEE REPORTS

Councilor Shakespeare – The Infrastructure Committee will meet Monday (8/30/2010) at 6 p.m.

Councilor Hughes – The Planning and Development Committee has been working on a variety of projects including the marina environmental work, the final report of the BEAR project, the Harbor, PACE and marijuana cultivation ordinances, expansion of zoning to allow larger childcare businesses, and the Business Park and TIF's.

Finance Committee – The Town Manager reported that the Finance Committee discussed the Hampden Water District rate increase proposal, the council's possible meeting on 9/14 with SAD #22, Winterport, and Newburgh about the issue of reuse of the old Hampden Academy property, and the idea of a strategic planning session for the Council with outside facilitation.

E. MANAGER'S REPORT

A copy of the Manager's Report is attached.

Additional Items:

It is our goal to get tax bills sent out by next week now that the Council has set the mil rate.

A reminder that our next meeting is on Tuesday, September 7th because of the Labor Day Holiday.

The Edythe Dyer Library has been granted \$25,000 for a new circulation desk system.

F. COUNCILOR'S COMMENTS

Councilor Hughes informed the Council and viewing audience that the PACE ordinance allows residents to access loan funds through Efficiency Maine that would not be possible if the Town did not have the ordinance. It also connects the Town with the Maine Green Energy Alliance who is helping residents with energy efficiency evaluation of their properties. Persons should contact Shelby Wright for more information.

Mayor Arnett reminded Councilors that there would be meetings on 8/19 and 8/30 from 6-7:30 p.m. in the Community Room for persons interested in learning more about the PACE ordinance and the Maine Green Energy Alliance. He also noted the excellent job done by the Recreation Department for this year's Kid's Kamp Luncheon held at Reed's Brook. He commended GIS/IT Specialist Gretchen Heldmann for the report done on cost savings realized by the renegotiation of the copier contracts for the Town.

Councilor Cushing reminded Councilors that this coming Saturday was Children's Day.

G. ADJOURNMENT

There being no further business, the meeting was adjourned at 8:19 p.m.



Denise Hodsdon
Town Clerk

MANAGER'S REPORT

August 16, 2010

Infrastructure Committee – Date change request – The Infrastructure Committee is scheduled to meet on Monday, August 23rd. I am on vacation from August 23-27th. Would it be possible to reschedule the Council meeting for Monday, August 30th so that I could attend.

Kids Korner Brunch – The program put on by the Kids Kamp group was a big success again this year despite some challenges created by the construction at Reed's Brook and electrical issues encountered while trying to prepare the food. The children were simply wonderful and the program was ably supervised by Kids Korner /Kids Kamp director Jill.

Employee Barbecue – The annual employee barbecue was held on Wednesday, August 11th. Approximately 40 people attended. Thanks to Albie Valcourt for doing the grilling, to Matt Thomas for organizing and planning the event and for all of the Committee members who assisted in the project, as well as employees who brought salads and drinks and desserts as well. A ten year pin was presented to town Planner Bob Osborne, and one give to Pool Director Darcy Peakall for pool employee Clair Cole.

Cable Access Channel Interviews – Local Candidates – Newsletter Editor Annie O'Reilly and local news producer Heather Seavey will be filming an interview session with all candidates for council, school board, and Water District (who wish to participate)on Saturday, September 25th. The show will air between the first of October and Election day.

Gubernatorial Candidates – The Maine Municipal Association conducted interviews with all gubernatorial candidates. The interviews are available for communities to use on local cable access channels. The Communications Committee recommends to the full council that these interviews be aired on Hampden Cable Access Channel.

Update – Hampden Academy Construction Project – Attached to this report is the latest update on new HA construction. The project is proceeding forward on a number of fronts included geothermal well installation, concrete work for a number of building segments, improvements at Reed's Brook school in parking lot, storm drain system and softball field, and waterline installation at Weatherbee School.